FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 656/ 2007
(The State of Mah. Vs. Digambar Ramkrishna Pesole)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. D.B. Patel, A.G.P. for the appellant.
Mr. V.K. Paliwal, Adv. for R-sole.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 17th September, 2007.

Heard Shri Patel, the learned A.G.P. for the State, and Shri Paliwal, the learned counsel for the respondent.

The first appeal is preferred against the judgment passed by the reference Court on 22nd November, 2002, granting enhanced compensation to the respondent/claimant @ Rs. 60,000/- per hectare.

The land of the respondent was situated at Pimprala and the same was acquired for the purpose of construction of a percolation tank at Shelodi. Section 4 notification was issued on 15/12/1994 and section 6 notification was issued on 27/4/1995. The Land Acquisition Officer passed the Award on 26/11/1996 and awarded compensation @ Rs. 36,000/- per hectare. The respondent got aggrieved by the grant of meager compensation

and, therefore, he filed reference application before the Collector, Buldhana, who in turn, referred the matter to the reference Court. The respondent claimed the compensation at Rs. 50,000/- per acre. It was the case of the claimant that the land belonging to the claimant was of extremely good quality and the lands in the vicinity of the acquired land were sold @ more than Rs. 60,000/- per hectare. The sale deeds were produced by the respondent on record and they were marked as Exhs. 35 and 37. The claimant examined himself and deposed about the prime location of the land and the quality of the same. The claimant also relied on the Awards passed by the reference Court with regard to the acquisition of lands which were situated in the adjoining villages of Pimpri-Gaoli, Awar, Temburna, etc. Relying on the Awards passed in Land Acquisition Case Nos. 76/92, 35/92 and 61/92, the respondent claimed that the value of the land in question was not less than Rs. 60,000/- per hectare.

The reference Court had granted compensation @ Rs. 60,000/- per hectare. The reference Court also rightly relied on the oral evidence tendered by the respondent. The sale deeds produced by the respondent at Exhs. 35 and 37 were discarded by the reference Court as they had reflected the transactions which were effected

much later than the issuance of section 4 notification in this case. The reference Court placed heavy reliance on the Award passed in Land Acquisition Case Nos. 76/92, 35/92 and 61/92, which pertained to the lands which were situated in the adjoining villages of Pimpri-Goli, Awar and Tembhurna, and which were acquired by the State of Maharashtra. Since the reference Court has granted compensation @ Rs. 60,000/- per hectare and since the villages Pimpri-Gaoli, Awar and Tembhurna were situated just in the vicinity of village Pimprala, the reference Court rightly considered the Award passed by it in three earlier cases, to grant compensation to the respondent herein @ Rs. 60,000/- per hectare. The judgment and award passed in respect of comparable lands or the lands adjoining to the acquired land, can be a basis for determining the market value. It is further conspicuous to note that the State had preferred First Appeal No. 474/03, 38/03 and 633/02 against the Award passed by the reference Court in respect of the lands which were situated at Pimpri-Gaoli and Awar. This Court had, by a common order dated 17th August, 2007, dismissed the aforesaid appeals filed by the State of Maharashtra. It is conspicuous to note that Section 4 notification was issued in those cases in the year 1990 and 1993, and in the instant case, the same is issued on 15/4/1994.

Thus, the lands were acquired in the decided cases, at the similar point of time i.e. in the year 1991 to 1992. Section 4 notification issued in this case, being the latest one, in view of the aforesaid decision, the grant of compensation to the claimant @ Rs. 60,000/- per hectare, cannot be found fault with.

For the reasons aforesaid, first appeal is dismissed with no order as to costs.

JUDGE

RMP